

C.A. No. _____

Plaintiff Angelo, Gordon Management, LLC (“AGM”), by and through its attorneys, for its Verified Complaint against Defendant 2100 Trust, LLC, alleges as follows:

1. This action seeks declaratory and injunctive relief to enforce the provisions of an Agreement and Plan of Merger dated as of June 9, 2012 (the “Merger Agreement”) pursuant to which defendant 2100 Trust, LLC (“2100 Trust”) acquired Freedom Communications Holdings, Inc. and its subsidiaries (collectively, “Freedom Communications” or the “Company”) through a reverse triangular merger (the “Merger”).¹ Under the terms of the Merger Agreement, AGM was appointed as the representative of the Company’s former stockholders (the “Selling Stockholders”) for, among other purposes, the purpose of exercising the rights and powers of the Selling Stockholders in connection with the Merger Agreement and a related escrow agreement.

2. As a condition of the Merger, the Company agreed to sell off or liquidate certain businesses and assets that were not part of the core newspapers, magazines, websites, and other

publications owned and operated by the Company. To cover separate indemnification obligations related to each of these dispositions, portions of the purchase price from the disposition transactions were held back by the acquirers and not paid to the Company. Under the Merger Agreement, once these held back amounts were released to the Company, 2100 Trust was obligated to pay those amounts to the paying agent for distribution to the Selling Stockholders.

3. Also, at the time the Merger closed, 2100 Trust placed \$2 million in escrow (the “Indemnification Escrow Fund”) with JPMorgan Chase Bank, NA (the “Escrow Agent”) to secure the payment of potential indemnification obligations that might arise under Article 8 of the Merger Agreement. The Indemnification Escrow Fund is governed by an escrow agreement dated as of July 25, 2012 (the “Escrow Agreement”).

4. The Merger closed on July 25, 2012.

5. On July 18, 2013, 2100 Trust’s counsel sent a letter to AGM and claimed that the Company had breached representations and warranties in the Merger Agreement and that the Company and its personnel engaged in fraud in connection with the Merger. The letter did not assert any claims against the Selling Stockholders. The letter did not comply with the requirement in the Merger Agreement that indemnification claims be described with reasonable detail.

6. Moreover, because 2100 Trust’s claims for indemnification exceeded the balance of the Indemnification Escrow Fund, 2100 Trust stated that it was retaining the amounts held back in connection with the disposition transactions as a set off to the indemnification claims. Nothing in the Merger Agreement permits 2100 Trust to withhold amounts owed to the Selling Stockholders based on alleged indemnification or fraud claims against the Company and its management.

7. As described more fully below, in this action AGM seeks declarations that (i) 2100 Trust may not retain the held back amounts as a set off against its indemnification claims and (ii) 2100 Trust did not properly notice its indemnification claims. AGM seeks injunctive relief (i) barring 2100 Trust from continuing to retain the held back funds as a set off to its indemnification claims, (ii) compelling 2100 Trust to pay the held back funds to the paying agent for distribution to the Selling Stockholders, (iii) barring 2100 Trust from asserting its indemnification claims, and (iv) compelling 2100 Trust to deliver notice to the Escrow Agent to release the balance of the Indemnification Escrow Funds to the Selling Stockholders.

THE PARTIES AND RELEVANT NON-PARTY

8. Plaintiff AGM is a Delaware limited liability company with its principal place of business in New York. Pursuant to Section 9.13 of the Merger Agreement, AGM was designated the “Stockholder Representative,” in which capacity AGM acts as the agent, representative, proxy and attorney-in-fact of the Company’s stockholders for purposes of enforcing various rights under the Merger Agreement and the Escrow Agreement. In this capacity, AGM has the right to take all actions on behalf of each stockholder in connection with any claims under the Merger Agreement.

9. Defendant 2100 Trust is a Delaware limited liability company that is in the business of acquiring newspaper properties.

10. Non-party Freedom Communications is a national information and entertainment company of print publications and interactive businesses. The Company’s portfolio includes information and entertainment websites, mobile applications, daily and weekly newspapers, magazines, and other specialty publications.

FACTUAL BACKGROUND

A. Prior To Closing, The Company Begins Disposing Of Certain Businesses And Assets Pursuant To The Merger Agreement.

11. Freedom Communications, 2100 Trust, and 2100 Freedom Inc. entered into the Merger Agreement as of June 9, 2012. As a condition to the Merger, the Company agreed to sell off or liquidate certain businesses and assets that were not part of the newspapers, magazines, websites and other publications owned and operated by the Company. The businesses and assets that were to be sold or liquidated were referred to in the Merger Agreement as the “Other Freedom Businesses.” The businesses and assets that were retained by the Company were referred to as the “Retained Businesses.”

12. The Other Freedom Businesses were sold pursuant to Disposition Agreements, as defined in the Merger Agreement. The Company began disposing of the Other Freedom Businesses prior to the Merger closing, but not all dispositions were consummated at the time of closing. The separate dispositions of the Other Freedom Assets were subject to their own post-closing indemnification obligations, which were imposed on the Company as the seller of those assets. To cover those indemnification obligations, the acquirers of the Other Freedom Assets held back portions of the purchase price that was paid to the Company in the disposition transactions.

B. The Merger Agreement Governs The Disbursement Of Funds Held Back In Connection With The Disposition Of The Other Freedom Assets.

13. Section 5.18 of the Merger Agreement governs the treatment of funds related to the disposition of Other Freedom Businesses following the closing of the Merger. In Section 5.18(c) of the Merger Agreement, 2100 Trust acknowledged that the Disposition Agreements contained indemnification obligations with respect to their respective transactions. Those indemnification obligations continued as the responsibility of the Company (as the surviving

entity) following the Merger. 2100 Trust also acknowledged that to secure the indemnification obligations imposed by the Disposition Agreements, a portion of the purchase price under certain Disposition Agreements was held back at the closing of the transactions disposing of Other Freedom Businesses. Any amount of held back funds was referred to as the “Holdback Amount” in the Merger Agreement.

14. 2100 Trust further acknowledged in Section 5.18(c) of the Merger Agreement that at the expiration of the holdback period specified in the Disposition Agreements, any Holdback Amount then remaining may be required to be released to the Company. The released Holdback Amount was referred to as a “Released Holdback Amount” in the Merger Agreement. 2100 Trust agreed in Section 5.18(c) that in connection with any release of a Holdback Amount that were to occur after the Merger closed, 2100 Trust would have the Released Holdback Amount distributed to the Selling Stockholders.

15. Section 5.18(c) reads in its entirety as follows:

[2100 Trust] further acknowledges that: the Disposition Agreements contain post-closing indemnification obligations (“**Indemnification Obligations**”) of the Surviving Corporation or one or more of its Subsidiaries that are parties to such Disposition Agreements (the “**Relevant Parties**”); to secure such Indemnification Obligations, a portion of the cash purchase price under certain of the Disposition Agreements is being withheld at closing and not paid over to the Relevant Parties (any such amount, a “**Holdback Amount**”); and, at the expiration of the holdback period specified in such Disposition Agreements, any portion of the relevant Holdback Amount then remaining may be required to be released to the Relevant Parties (any such amount so released, a “**Released Holdback Amount**”). In that regard, *[2100 Trust] agrees that, in connection with any such release that occurs after the Closing Date, [2100 Trust] shall promptly pay in cash to the Paying Agent, for the benefit of the former holders of shares of Company Common Stock and Warrants, an amount equal to such Released Holdback Amount, and the Paying Agent shall distribute such amount to the former holders of share of Company Common Stock and Warrants in the manner provided in Article 2 of [the Merger Agreement]. (emphasis added).*

16. To date, no indemnity claims have been made by the buyers of the Other Freedom Assets pursuant to the Disposition Agreements, and the Holdback Amount approximates \$17.45 million.

C. The Merger Agreement Provides For Post-Closing Indemnification For Claims Related To The Merger.

17. Article 8 of the Merger Agreement sets forth the indemnification provisions applicable to the Merger. Section 8.01 of the Merger Agreement provides that the representations and warranties provided in the Merger Agreement shall survive until the one year anniversary of the Merger closing (the “Survival Date”). The Survival Date is July 25, 2013.

18. Section 8.01 further provides that “all representations and warranties in [the Merger Agreement] (or in any instrument delivered pursuant thereto) shall automatically terminate and be of no further force or effect, and except for fraud or intentional breach, no claims of any type whatsoever arising out of, based upon or relating any way to such representations and warranties may be brought by any party after the Survival Date.” The parties agreed that the foregoing sentence would operate as a reasonable and appropriate contractual statute of limitations that would replace and supplant any statute of limitations that would otherwise apply.

19. Section 8.02(a) set forth the indemnification to which 2100 Trust was entitled under the Merger Agreement. Section 8.02(a) states in relevant part:

Subject to the limitations set forth in this Article 8, from and after the Effective Time, [2100 Trust], the Surviving Corporation and each of their respective directors, officers, employees, agents and Affiliates ... shall, ***solely out of the Indemnification Escrow Amount***, be indemnified and held harmless for, from, and against all Losses based upon, arising out of, asserted against, resulting from, imposed on, in connection with, or otherwise in respect of: (i) any breach of, or any misrepresentation with respect to, any representation or warranty of the Company contained in [the Merger Agreement] (Emphasis added).

20. Section 8.03(a)(ii) reinforces the limitation on 2100 Trust's indemnification rights and establishes the Indemnification Escrow Amount as the limit to the amount of indemnification 2100 Trust can recover for claims pursuant to Section 8.02(a). Section 8.03(a)(ii) states:

Notwithstanding any provision of [the Merger Agreement] to the contrary, the aggregate indemnification pursuant to Section 8.02(a) ***shall not exceed the Indemnification Escrow Amount***, and [2100 Trust] ... agrees not to seek, and shall not be entitled to recover, any Losses or other payments, in each case for claims pursuant to Section 8.02(a), in excess of such Indemnification Escrow Amount. (Emphasis added).

21. Section 8.03(c) further reinforces the limitations on 2100 Trust's indemnification rights. It reads in relevant part:

If there is determined to be any amount owing to [2100 Trust] pursuant to Section 8.02(a), the Indemnification Escrow Amount ***shall be the sole and exclusive recourse used to satisfy any and all amounts owed to [2100 Trust] therefor. No other assets shall in any respect be used to satisfy any indemnity obligations owed to [2100 Trust] for claims under Section 8.02(a)*** For purposes of clarity, the sole and exclusive recourse for any amount owed to [2100 Trust] as a result of indemnity claims under Section 8.02(a) shall be made only by payment out of the Indemnification Escrow Amount, and once the Indemnification Escrow Amount shall be depleted or released, such indemnity claims under Section 8.02(a) shall terminate.

22. Section 8.07 of the Merger Agreement establishes that Article 8 is the sole and exclusive remedy of the Indemnified Parties with respect to the subject matter of the Merger Agreement, except with respect to fraud.

23. To make an indemnification claim under Article 8, the claiming party must provide notice of the claim to the indemnifying party and describe the claim in reasonable detail.

D. 2100 Trust Submits A Notice Of Claim And Refuses Improperly And In Breach Of The Merger Agreement To Release The Holdback Amount.

24. By letter dated July 18, 2013 (the "July 18 Letter"), 2100 Trust's counsel purported to deliver a notice of claims to AGM and seek indemnification under the Merger

Agreement.² The letter also noted 2100 Trust's "intention to pursue claims for fraud in connection with the transaction consummated by the Merger Agreement." The July 18 Letter was delivered one week before the Survival Date.

25. In the July 18 Letter, 2100 Trust sought indemnification pursuant to Section 8.02(a)(i) of the Merger Agreement for purported breaches of the Company's representations and warranties. Each of the claims was based on an alleged breach of Section 3.05 of the Merger Agreement, which contained representations and warranties *of the Company* with respect to the Company's financial statements and disclosed liabilities. Some of the claims also alleged a breach of Section 2.12(a) of the Merger Agreement regarding *the Company's* obligations with respect to post-closing adjustments. None of the claims asserted any breaches or wrongdoing by the Selling Stockholders.

26. The July 18 Letter did not describe the indemnification claims in reasonable detail, as required by Section 8.04(c) of the Merger Agreement. The letter did not include underlying documentation or spreadsheets, did not show calculations of the estimated losses, and alluded to GAAP violations without identifying any particular accounting standard or principle that was violated. 2100 Trust alleged, without any supporting detail, that the losses attributable to the purported claims total approximately \$62.3 million.

27. Also, 2100 Trust conclusorily claimed in the July 18 Letter that the Company's breaches of its representations and warranties constituted fraud, presumably to circumvent the limitations on indemnification and the exclusive remedy provision in the Merger Agreement.

28. The claims of fraud in the July 18 Letter were directed at the Company and its management, and they were not alleged with reasonable detail or particularity. As with the

² A true and correct copy of the July 18 Letter is attached hereto as Exhibit B.

indemnification claims, the claims of fraud were not directed at, and did not allege any misconduct by, the Selling Stockholders.

29. Though 2100 Trust's indemnification and fraud claims are directed at the Company and its management, 2100 Trust refuses to release the wholly unrelated Holdback Amount to the Selling Stockholders. 2100 Trust is withholding the Holdback Amount (owed to the Selling Stockholders) as a partial offset of the purported damages (alleged to have been caused by the Company and its management) described in the July 18 Letter.

30. 2100 Trust is improperly withholding the Holdback Amount because the purported damages described in the July 18 Letter exceed the balance of the Indemnification Escrow Fund, which is 2100 Trust's exclusive remedy as to the Selling Stockholders. The July 18 Letter states that "Claimant is retaining certain Holdback Amounts under Section 5.18(c) of the Merger Agreement as a partial offset of the damages occasioned by the Company's fraud to the extent they exceed what remains in the Escrow Amount."

31. No provision in the Merger Agreement permits 2100 Trust to withhold the Holdback Amount as an offset to purported indemnification or fraud claims. Indeed, Section 5.18(c) of the Merger Agreement obligates 2100 Trust to release the Holdback Amount "promptly." Moreover, Section 8.03 of the Merger Agreement states that "[n]o other assets shall in any respect be used to satisfy any indemnity obligations owed to [2100 Trust] for claims under Section 8.02(a), and [2100 Trust] agrees to waive any right or claim otherwise."

E. AGM Responds To The July 18 Letter, And 2100 Trust Continues To Withhold The Holdback Amount.

32. By letter dated August 5, 2013 (the “August 5 Letter”), AGM responded to the July 18 Letter.³ The August 5 Letter informed 2100 Trust that the July 18 Letter lacked reasonable detail of the claims as required by the Merger Agreement. It also noted that 2100 Trust breached its own representation and warranty in the Merger Agreement that it had “not relied on any representation, warranty or other statement by any Person on behalf of the Company or any of its Subsidiaries, other than the representations and warranties of the Company expressly contained in Article 3”

33. Also, the August 5 Letter stated that 2100 Trust had no legal basis for withholding the Holdback Amount as a purported set off to its alleged indemnification and fraud claims. The letter observed that 2100 Trust made generalized allegations of fraud on the part of the Company and its management, but did not make any similar allegations against the Selling Stockholders. AGM therefore demanded that the Holdback Amounts be distributed promptly.

34. 2100 Trust’s counsel responded to the August 5 Letter by letter dated August 16, 2013 (the “August 16 Letter”).⁴ In the August 16 Letter, 2100 Trust did not address AGM’s claim of improper setoff but still stated that it would not distribute the Holdback Amounts. The parties have attempted, but have been unable, to resolve this dispute.

**COUNT ONE
DECLARATORY JUDGMENT REGARDING HOLDBACK AMOUNT**

35. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth at length herein.

³ A true and correct copy of the August 5 Letter is attached hereto as Exhibit C.

⁴ A true and correct copy of the August 16 Letter is attached hereto as Exhibit D.

36. Section 5.18(c) of the Merger Agreement provides that after the expiration of the holdback period, 2100 Trust “shall promptly pay” the Holdback Amount for distribution to the Selling Stockholders.

37. The Selling Stockholders are the beneficiaries of 2100 Trust’s obligation under the Merger Agreement to promptly pay the Holdback Amount, and the Stockholders’ Representative has demanded payment of the Holdback Amount.

38. 2100 Trust has refused to pay the Holdback Amount and instead is withholding the amount as an improper set off to purported indemnification and fraud claims it has against the Company and its management.

39. The parties have attempted to resolve this dispute but have been unable to do so.

40. A valid case and controversy exists as to whether 2100 Trust may withhold the Holdback Amount as a set off to claims it purports to have against the Company and its management.

41. A valid case and controversy exists as to whether 2100 Trust has breached the Merger Agreement by refusing to pay the Holdback Amount to the paying agent for distribution to the Selling Stockholders.

42. AGM is entitled to a prompt judicial declaration that (i) 2100 Trust may not withhold the Holdback Amount as a set off to claims it purports to have against the Company and its management, (ii) 2100 Trust is in breach of the Merger Agreement by not paying the Holdback Amount for distribution to the Selling Stockholders, and (iii) 2100 Trust must comply with Section 5.18(c) of the Merger Agreement and promptly pay the Holdback Amount for distribution to the Selling Stockholders.

COUNT TWO
DECLARATORY JUDGMENT REGARDING ESCROW

43. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth at length herein.

44. To make a proper claim for indemnification under the Merger Agreement, the claim must be described in reasonable detail as required by Section 8.04(c) of the Merger Agreement.

45. As described above and in the August 5 Letter, 2100 Trust failed to describe its indemnification claims in the July 18 Letter in “reasonable detail” as required by Section 8.04(c) of the Merger Agreement.

46. As a result of failing to describe its indemnification claims in reasonable detail, 2100 Trust has not properly asserted a claim for indemnification under the Merger Agreement and therefore has no claim to the Indemnification Escrow Fund.

47. A valid case and controversy exists as to whether 2100 Trust has asserted a claim for indemnification under the Merger Agreement.

48. AGM is entitled to a prompt judicial declaration that (i) 2100 Trust has no claim to the Indemnification Escrow Fund and (ii) any funds remaining in the Indemnification Escrow Fund should be released for distribution to the Selling Stockholders.

COUNT THREE
BREACH OF CONTRACT REGARDING HOLDBACK AMOUNT

49. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth at length herein.

50. The Merger Agreement is a valid and binding contract.

51. Section 5.18(c) of the Merger Agreement provides that after the expiration of the holdback period, 2100 Trust “shall promptly pay” the Holdback Amount for distribution to the Selling Stockholders.

52. The Selling Stockholders are the beneficiaries of 2100 Trust’s obligation under the Merger Agreement to promptly pay the Holdback Amount, and the Stockholder Representative has demanded payment of the Holdback Amount.

53. 2100 Trust has refused to pay the Holdback Amount and instead is withholding the amount as an improper set off to purported claims it has against the Company and its management.

54. 2100 Trust is in breach of Sections 5.18(c) and 8.03 of the Merger Agreement.

55. 2100 Trust has not initiated any litigation to establish its right to set off its purported claims against the Company and management with money 2100 Trust is obligated to pay to the Selling Stockholders.

56. Absent injunctive relief from this Court, 2100 Trust will continue to assert its purported right to set off indefinitely and withhold money owed to the Selling Stockholders.

57. Only injunctive relief from this Court can compel 2100 Trust to withdraw its claim of set off and specifically perform its obligations under the Merger Agreement.

58. AGM is entitled to an order that 2100 Trust (i) withdraw its claim to set off the Holdback Amount and (ii) specifically perform its obligations under the Merger Agreement to pay the Holdback Amount to the paying agent for distribution to the Selling Stockholders.

COUNT FOUR
BREACH OF CONTRACT REGARDING ESCROW

59. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth at length herein.

60. The Merger Agreement and the Escrow Agreement are valid and binding contracts.

61. To make a proper claim for indemnification under the Merger Agreement, the claim must be described in reasonable detail as required by Section 8.04(c) of the Merger Agreement.

62. 2100 Trust failed to describe its indemnification claims in the July 18 Letter in “reasonable detail” as required by Section 8.04(c) of the Merger Agreement.

63. The Survival Date has passed.

64. As a result of failing to describe its indemnification claims in reasonable detail, 2100 Trust has not properly asserted a claim for indemnification under the Merger Agreement and therefore has no claim to the Indemnification Escrow Fund.

65. Nevertheless, 2100 Trust refuses to submit instructions to the Escrow Agent to release the remaining balance of the Indemnification Escrow Fund to the Selling Stockholders.

66. Absent injunctive relief from this Court, 2100 Trust will continue to assert its purported right to indemnification and withhold money owed to the Selling Stockholders.

67. Only injunctive relief from this Court can compel 2100 Trust to withdraw its indemnification claims and specifically perform its obligations under the Merger Agreement and Escrow Agreement to notify the Escrow Agent to release the balance of the Indemnification Escrow Fund to the paying agent for distribution to the Selling Stockholders.

68. AGM is entitled to an order that 2100 Trust (i) withdraw its indemnification claims and (ii) specifically perform its obligations under the Merger Agreement and Escrow Agreement to notify the Escrow Agent to release the balance of the Indemnification Escrow Fund to the paying agent for distribution to the Selling Stockholders.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests that the Court enter an Order:

- A. Declaring that 2100 Trust may not withhold the Holdback Amount as a set off to claims it purports to have against the Company and its management;
- B. Declaring that 2100 Trust is in breach of the Merger Agreement by not paying the Holdback Amount for distribution to the Selling Stockholders;
- C. Declaring that 2100 Trust must comply with Section 5.18(c) of the Merger Agreement and promptly pay the Holdback Amount for distribution to the Selling Stockholders;
- D. Declaring that 2100 Trust did not properly notice indemnification claims pursuant to the Merger Agreement;
- E. Declaring that 2100 Trust has no claim to the Indemnification Escrow Fund;
- F. Declaring that any funds remaining in the Indemnification Escrow Fund should be released to the paying agent for distribution to the Selling Stockholders;
- G. Enjoining 2100 Trust from continuing to assert a claim for set off of the Holdback Amount and withholding the Holdback Amount;
- H. Compelling 2100 Trust to perform its obligations under the Merger Agreement to pay the Holdback Amount to the paying agent for distribution to the Selling Stockholders;
- I. Enjoining 2100 Trust from continuing to assert its indemnification claims;
- J. Compelling 2100 Trust to perform its obligations under the Merger Agreement and Escrow Agreement to notify the Escrow Agent to release the balance of the Indemnification Escrow Fund to the paying agent for distribution to the Selling Stockholders
- K. Awarding plaintiff its costs and expenses in connection with this action, including attorneys' fees; and

L. Granting plaintiff such other and further relief as the Court deems appropriate.

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Dated: October 25, 2013
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